law larceny. *Held*, that, since the facts alleged constitute common-law larceny by trick and not an obtaining by false pretenses, the first count is bad and the second is good. *People* v. *Feinman*, 137 N. Y. Supp. 933 (Ct. Gen. Sess., N. Y. County).

In New York the crime of larceny has been extended by statute to cover the old statutory crime of obtaining by false pretenses. N. Y. CONSOL. LAWS, 1909, § 1290, p. 3963. But it is unfortunately held that an allegation of common-law larceny is not supported by proof of an obtaining by false pretenses, and *vice versa*. It is thus still essential to decide whether certain facts constitute larceny by trick or an obtaining by false pretenses. *People* v. *Dumar*, 106 N. Y. 502, 13 N. E. 325; *People* v. *Gottschalk*, 66 Hun (N. Y.) 64, 20 N. Y. Supp. 777. The court in the principal cases chooses larceny by trick, on the ground that at common law where actual title passes to the defendant there is an obtaining by false pretenses, and where possession or any interest less than ownership passes we have larceny by trick. But at common law it was not essential, in order to prevent the crime from being larceny by trick, that title should actually pass, nor even that the owner should intend it to pass to the person who obtained the property. *Queen* v. *Adams*, 1 Den. C. C. 38; *Rex* v. *Adams*, R. & R. 225. *Cf. Zink* v. *People*, 77 N. Y. 114. The necessary element was that the owner should intend to deal with the title. *Regina* v. *Thompson*, 9 Cox C. C. 222. It would seem, therefore, that, if this arbitrary distinction is to be preserved, the court should have upheld the count alleging an obtaining by false pretenses.

LICENSES — REVOCATION AFTER LICENSEE HAS ACTED ON PAROL LICENSE AND INCURRED EXPENSE. — The defendant contracted orally to give the plaintiff rights in common in a well and windmill to be erected on the defendant's land at their mutual expense. After the work was completed the defendant refused to allow the plaintiff to draw water. *Held*, that the license implied is revocable, but that an injunction will issue against obstructing the plaintiff if he is not paid within a reasonable time the value of the work done by him. *Johnson* v. *Bartron*, 137 N. W. 1092 (N. D.).

By the weight of authority equity will enforce performance of a parol contract to give an easement in behalf of a party who has performed his part to his detriment. *Gilmore* v. *Armstrong*, 48 Neb. 92, 66 N. W. 998; *McManus* v. *Cooke*, 35 Ch. D. 681. See 49 L. R. A. 497, 513. But this exception to the Statute of Frauds is, by many courts, not extended to the enforcement of parol licenses. *Cronkhite* v. *Cronkhite*, 94 N. Y. 323; *Simpson* v. *Wright*, 21 Ill. App. 67. See *Lawrence* v. *Springer*, 49 N. J. Eq. 289, 24 Atl. 933, 934; 9 HARV. L. REV. 455. The court in the principal case, following this view, admits a legal right to revoke but restrains its exercise if the plaintiff is not indemnified. This jurisdiction of equity must be based on the vague doctrine that equity will restrain the unconscionable exercise of a legal right. An example is the equity of redemption in mortgages. *Emanuel College* v. *Evans*, 1 Rep. Ch. 18. See 1 POMEROY, EQUITY JURISPRUDENCE, 3 ed., § 162; 13 HARV. L. REV. 676. So also equity will compel a creditor to deliver a security to a surety who has paid the debt, instead of to the debtor. *St. Peter's Catholic Church* v. *Vannote*, 66 N. J. Eq. 78, 56 Atl. 1037. It will often enjoin the enforcement of penalties in contracts. *Giles* v. *Austin*, 62 N. Y. 486. See 1 POMEROY, EQUITY JURISPRUDENCE, 3 ed., § 433. It will restrain the unconscionable exercise of the legal rights incident to incorporation. *Beal* v. *Chase*, 31 Mich. 490. See *Moore & Handley Hardware Co.* v. *Towers Hardware Co.*, 87 Ala. 206, 211, 6 So. 41, 43. The principal case may be a novel extension of this doctrine, but when the expense has been incurred by the plaintiff for a benefit to the land as desired by the defendant, such a decree would seem to be a logical, just, and practical solution of a difficult problem.

MARITIME LIENS — MATERIALMAN'S LIEN — WHAT LAW GOVERNS. — A Russian ship was mortgaged in England. Later she proceeded to Copenhagen and was supplied with necessaries for which by Danish law the materialman acquired a maritime lien on the ship, good against all prior interests therein. The ship was libeled and sold in Scotland. By Scotch law a mortgage took precedence over the claim of a materialman. *Held*, that the law of the forum be applied and the English mortgagee preferred to the Danish materialman. *Constant* v. *Klompus*, 50 Scot. L. Rep. 27. See NOTES, p. 356.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACTS — RECOVERY FOR INJURY AGAINST THIRD PARTY: RIGHT TO SUBSEQUENT RECOVERY AGAINST EMPLOYER. — The plaintiff, an employee of the defendant, while acting in the course and scope of his employment, was injured by the negligence of a third party. He sued the third party and recovered, giving a release of his claim against him. The plaintiff then sued his employer under the Workmen's Compensation Act of the state. *Held*, that the plaintiff can recover. *Perlsburg* v. *Muller*, 35 N. J. L. J. 299 (N. J. C. P., 1912).

The right of the injured employee against his employer seems contractual in nature. The employer has undertaken to indemnify the employee for injuries arising out of the employment. His obligations, therefore, in case of accident, seem closely analogous to those of an insurer. A provision of the English act which has been substantially followed in many states subrogates the employer to the injured employee's right of action against a negligent third party. STAT. 6 EDW. VII, c. 58, § 6; KAN., SESS. LAWS, 1911, c. 218, § 5; ILL., LAWS, 1911, p. 324, § 17. Without such a statutory provision, on analogy to insurance probably subrogation should not be allowed. It is true that subrogation is permitted in fire insurance. *Mason* v. *Sainsbury*, 3 Dougl. 61. But no case of subrogation in life insurance can be found. The probable reason is that courts regard the contract as not for indemnity but to pay a fixed sum on the happening of an event. See *Insurance Co.* v. *Bailey*, 13 Wall. (U. S.) 616, 619. But see MAY, INSURANCE, 4 ed., § 7. Even treating life insurance contracts as valued indemnity policies, the pecuniary damage done by death is so purely conjectural that perhaps under no circumstances can we say the insured is fully indemnified. In accident insurance the pecuniary damage to the insured can frequently be more readily determined, but the same reasoning, although with less force, applies. In accident insurance there seems to be no case of subrogation, and it has been held affirmatively that subrogation will not be allowed. *Ætna Life Ins. Co.* v. *Parker*, 96 Tex. 287, 72 S. W. 168. Since the employer cannot interpose a set-off, a complete recovery is justified in the principal case.

MECHANICS' LIENS — RIGHT TO ENFORCE LIEN AGAINST LESSOR. — A lessee contracted in his lease to build upon the leased premises. The lessor was not to be chargeable for the lessee's contracts, but on termination of the lease the improvements were to belong to him. The lease being forfeited, an action to enforce a mechanic's lien was brought against the lessor. *Held*, that the lien will not bind the lessor. *Weathers* v. *Cox*, 76 S. E. 7 (N. C.).

Under various statutes a mechanic's lien clearly binds the lessee's interests. *Dutro* v. *Wilson*, 4 Oh. St. 101; *Cornell* v. *Barney*, 94 N. Y. 394. In general, however, it should not bind a lessor's estate unless by express consent he has actually connected himself with the building contract. *Francis* v. *Sayles*, 101 Mass. 435; *Rothe* v. *Bellingrath*, 71 Ala. 55. The lessor's consent cannot ordinarily be inferred by estoppel, or from the relation of landlord and tenant. *Mills* v. *Matthews*, 7 Md. 315; *Conant* v. *Brackett*, 112 Mass. 18. Nor can consent be inferred from a lease providing for repairs or improvements by the